

Union Calendar No. 146

105TH CONGRESS
1ST Session

H. R. 1683

[Report No. 105-256]

A BILL

To clarify the standards for State sex offender registration programs under the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.

SEPTEMBER 18, 1997

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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To clarify the standards for State sex offender registration programs under the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.

IN THE HOUSE OF REPRESENTATIVES

MAY 20, 1997

Mr. McCOLLUM (for himself, Ms. DUNN, Mr. DEAL of Georgia, Mr. CUNNINGHAM, Mr. RAMSTAD, Mr. CASTLE, Mr. FOLEY, Mr. DIAZ-BALART, Mr. LAMPSON, Mr. GUTKNECHT, Mr. SNOWBARGER, and Ms. ROS-LEHTINEN) introduced the following bill; which was referred to the Committee on the Judiciary

SEPTEMBER 18, 1997

Additional sponsors: Mr. PETERSON of Minnesota, Mrs. JOHNSON of Connecticut, Mr. FROST, and Mr. NORWOOD

SEPTEMBER 18, 1997

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on May 20, 1997]

A BILL

To clarify the standards for State sex offender registration programs under the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Jacob Wetterling Crimes*
 5 *Against Children and Sexually Violent Offenders Registra-*
 6 *tion Improvements Act of 1997”.*

7 **SEC. 2. STANDARDS FOR SEX OFFENDER REGISTRATION**
 8 **PROGRAMS.**

9 *(a) IN GENERAL.—Section 170101(a) of the Violent*
 10 *Crime Control and Law Enforcement Act of 1994 (42*
 11 *U.S.C. 14071(a)) is amended—*

12 *(1) in paragraph (1)—*

13 *(A) in subparagraph (A), by striking “with*
 14 *a designated State law enforcement agency”; and*

15 *(B) in subparagraph (B), by striking “with*
 16 *a designated State law enforcement agency”;*

17 *(2) by striking paragraph (2) and inserting the*
 18 *following:*

19 **“(2) DETERMINATION OF SEXUALLY VIOLENT**
 20 **PREDATOR STATUS; WAIVER; ALTERNATIVE MEAS-**
 21 **URES.—**

22 **“(A) IN GENERAL.—A determination of**
 23 *whether a person is a sexually violent predator*
 24 *for purposes of this section shall be made by a*
 25 *court after considering the recommendation of a*

board composed of experts in the behavior and treatment of sex offenders, victims' rights advocates, and representatives of law enforcement agencies.

“(B) *WAIVER.*—The Attorney General may waive the requirements of subparagraph (A) if the Attorney General determines that the State has established alternative procedures or legal standards for designating a person as a sexually violent predator.

“(C) *ALTERNATIVE MEASURES.*—The Attorney General may also approve alternative measures of comparable or greater effectiveness in protecting the public from unusually dangerous or recidivistic sexual offenders in lieu of the specific measures set forth in this section regarding sexually violent predators.”; and
(3) in paragraph (3)—

(A) in subparagraph (A), by striking “that consists of—” and inserting “in a range of offenses specified by State law which is comparable to or which exceeds the following range of offenses:”;

(B) in subparagraph (B), by striking “that consists of” and inserting “in a range of offenses

specified by State law which is comparable to or which exceeds the range of offenses encompassed by”; and

(4) by adding at the end the following:

“(F) The term ‘employed, carries on a vocation’ includes employment that is full-time or part-time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit; and

“(G) The term ‘student’ means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education.”.

(b) *REQUIREMENTS UPON RELEASE, PAROLE, SUPER-*

VISED RELEASE, OR PROBATION.—Section 170101(b) of the

Violent Crime Control and Law Enforcement Act of 1994

(42 U.S.C. 14071(b)) is amended—

(1) in paragraph (1)—

(A) by striking the paragraph designation and heading and inserting the following:

“(1) *DUTIES OF RESPONSIBLE OFFICIALS.*—”;

1 (B) in subparagraph (A)—

2 (i) in the matter preceding clause (i),
3 by striking “or in the case of probation, the
4 court” and inserting “the court, or another
5 responsible officer or official”;

6 (ii) in clause (ii), by striking “give”
7 and all that follows before the semicolon and
8 inserting “report the change of address as
9 provided by State law”; and

10 (iii) in clause (iii), by striking “shall
11 register” and all that follows before the
12 semicolon and inserting “shall report the
13 change of address as provided by State law
14 and comply with any registration require-
15 ment in the new State of residence, and in-
16 form the person that the person must also
17 register in a State where the person is em-
18 ployed, carries on a vocation, or is a stu-
19 dent”; and

20 (C) in subparagraph (B), by striking “or
21 the court” and inserting “, the court, or another
22 responsible officer or official”;

23 (2) by striking paragraph (2) and inserting the
24 following:

1 “(2) *TRANSFER OF INFORMATION TO STATE AND*
2 *FBI; PARTICIPATION IN NATIONAL SEX OFFENDER*
3 *REGISTRY.*—

4 “(A) *STATE REPORTING.*—*State procedures*
5 *shall ensure that the registration information is*
6 *promptly made available to a law enforcement*
7 *agency having jurisdiction where the person ex-*
8 *pects to reside and entered into the appropriate*
9 *State records or data system. State procedures*
10 *shall also ensure that conviction data and finger-*
11 *prints for persons required to register are*
12 *promptly transmitted to the Federal Bureau of*
13 *Investigation.*

14 “(B) *NATIONAL REPORTING.*—*A State shall*
15 *participate in the national database established*
16 *under section 170102(b) in accordance with*
17 *guidelines issued by the Attorney General, in-*
18 *cluding transmission of current address informa-*
19 *tion and other information on registrants to the*
20 *extent provided by the guidelines.”;*

21 (3) *in paragraph (3)(A)*—

22 (A) *in the matter preceding clause (i), by*
23 *striking “on each” and all that follows through*
24 *“applies:” and inserting the following: “State*

1 *procedures shall provide for verification of ad-*
2 *dress at least annually.”; and*

3 *(B) by striking clauses (i) through (v);*

4 *(4) in paragraph (4), by striking “section re-*
5 *ported” and all that follows before the period at the*
6 *end and inserting the following: “section shall be re-*
7 *ported by the person in the manner provided by State*
8 *law. State procedures shall ensure that the updated*
9 *address information is promptly made available to a*
10 *law enforcement agency having jurisdiction where the*
11 *person will reside and entered into the appropriate*
12 *State records or data system”;*

13 *(5) in paragraph (5), by striking “shall register”*
14 *and all that follows before the period at the end and*
15 *inserting “and who moves to another State, shall re-*
16 *port the change of address to the responsible agency*
17 *in the State the person is leaving, and shall comply*
18 *with any registration requirement in the new State of*
19 *residence. The procedures of the State the person is*
20 *leaving shall ensure that notice is provided promptly*
21 *to an agency responsible for registration in the new*
22 *State, if that State requires registration”; and*

23 *(6) by adding at the end the following:*

24 *“(7) REGISTRATION OF OUT-OF-STATE OFFEND-*
25 *ERS, FEDERAL OFFENDERS, PERSONS SENTENCED BY*

1 *COURTS MARTIAL, AND OFFENDERS CROSSING STATE*
 2 *BORDERS.—As provided in guidelines issued by the*
 3 *Attorney General, each State shall ensure that proce-*
 4 *dures are in place to accept registration information*
 5 *from—*

6 *“(A) persons who were convicted in another*
 7 *State, convicted of a Federal offense, or sentenced*
 8 *by a court martial; and*

9 *“(B) nonresident offenders who have crossed*
 10 *into another State in order to work or attend*
 11 *school.”.*

12 *(c) REGISTRATION OF OFFENDER CROSSING STATE*
 13 *BORDER.—Section 170101 of the Violent Crime Control*
 14 *and Law Enforcement Act of 1994 (42 U.S.C. 14071(c))*
 15 *is amended by redesignating subsections (c) through (f) as*
 16 *(d) through (g), respectively, and inserting after subsection*
 17 *(b) the following:*

18 *“(c) REGISTRATION OF OFFENDER CROSSING STATE*
 19 *BORDER.—Any person who is required under this section*
 20 *to register in the State in which such person resides shall*
 21 *also register in any State in which the person is employed,*
 22 *carries on a vocation, or is a student.”.*

23 *(d) RELEASE OF INFORMATION.—Section 170101(e)(2)*
 24 *of the Violent Crime Control and Law Enforcement Act of*
 25 *1994 (42 U.S.C. 14071(e)(2)), as redesignated by subsection*

1 (c) of this section, is amended by striking “The designated”
 2 and all that follows through “State agency” and inserting
 3 “The State or any agency authorized by the State”.

4 (e) IMMUNITY FOR GOOD FAITH CONDUCT.—Section
 5 170101(f) of the Violent Crime Control and Law Enforce-
 6 ment Act of 1994 (42 U.S.C. 14071(f)), as redesignated by
 7 subsection (c) of this section, is amended by striking “, and
 8 State officials” and inserting “and independent contractors
 9 acting at the direction of such agencies, and State officials”.

10 (f) FBI REGISTRATION.—(1) Section 170102(a)(2) of
 11 the Violent Crime Control and Law Enforcement Act of
 12 1994 (42 U.S.C. 14072(a)(2)) is amended by striking “and
 13 ‘predatory’” and inserting the following: “‘predatory’,
 14 ‘employed, or carries on a vocation’, and ‘student’”.

15 (2) Section 170102(a)(3) of the Violent Crime Control
 16 and Law Enforcement Act of 1994 (42 U.S.C. 14072(a)(3))
 17 is amended—

18 (A) in subparagraph (A), by inserting “in a
 19 range of offenses specified by State law which is com-
 20 parable to or exceeds that” before “described”;

21 (B) by amending subparagraph (B) to read as
 22 follows:

23 “(B) participates in the national database
 24 established under subsection (b) of this section in

1 *conformity with guidelines issued by the Attor-*
 2 *ney General;”*; and

3 *(C) by amending subparagraph (C) to read as*
 4 *follows:*

5 *“(C) provides for verification of address at*
 6 *least annually;”.*

7 *(g) PAM LYCHNER SEXUAL OFFENDER TRACKING AND*
 8 *IDENTIFICATION ACT OF 1996.—Section 10 of the Pam*
 9 *Lychner Sexual Offender Tracking and Identification Act*
 10 *of 1996 is amended by inserting at the end the following:*

11 *“(d) EFFECTIVE DATE.—States shall be allowed the*
 12 *time specified in subsection (b) to establish minimally suffi-*
 13 *cient sexual offender registration programs for purposes of*
 14 *the amendments made by section 2. Subsections (c) and (k)*
 15 *of section 170102 of the Violent Crime Control and Law*
 16 *Enforcement Act of 1994, and any requirement to issue re-*
 17 *lated regulations, shall take effect at the conclusion of the*
 18 *time provided under this subsection for the establishment*
 19 *of minimally sufficient sexual offender registration pro-*
 20 *grams.”.*

21 *(h) FEDERAL OFFENDERS AND MILITARY PERSON-*
 22 *NEL.—(1) Section 4042 of title 18, United States Code, is*
 23 *amended—*

24 *(A) in subsection (a)(5), by striking “subsection*
 25 *(b)” and inserting “subsections (b) and (c)”;*

1 (B) in subsection (b), by striking paragraph (4);

2 (C) by redesignating subsection (c) as subsection

3 (d); and

4 (D) by inserting after subsection (b) the follow-

5 ing:

6 “(c) *NOTICE OF SEX OFFENDER RELEASE.*—(1) *In the*

7 *case of a person described in paragraph (4) who is released*

8 *from prison or sentenced to probation, notice shall be pro-*

9 *vided to—*

10 “(A) *the chief law enforcement officer of the*

11 *State and of the local jurisdiction in which the person*

12 *will reside; and*

13 “(B) *a State or local agency responsible for the*

14 *receipt or maintenance of sex offender registration in-*

15 *formation in the State or local jurisdiction in which*

16 *the person will reside.*

17 *The notice requirements under this subsection do not apply*

18 *in relation to a person being protected under chapter 224.*

19 “(2) *Notice provided under paragraph (1) shall in-*

20 *clude the information described in subsection (b)(2), the*

21 *place where the person will reside, and the information that*

22 *the person shall be subject to a registration requirement as*

23 *a sex offender. For a person who is released from the custody*

24 *of the Bureau of Prisons whose expected place of residence*

25 *following release is known to the Bureau of Prisons, notice*

1 shall be provided at least 5 days prior to release by the
2 Director of the Bureau of Prisons. For a person who is sen-
3 tenced to probation, notice shall be provided promptly by
4 the probation officer responsible for the supervision of the
5 person, or in a manner specified by the Director of the Ad-
6 ministrative Office of the United States Courts. Notice con-
7 cerning a subsequent change of residence by a person de-
8 scribed in paragraph (4) during any period of probation,
9 supervised release, or parole shall also be provided to the
10 agencies and officers specified in paragraph (1) by the pro-
11 bation officer responsible for the supervision of the person,
12 or in a manner specified by the Director of the Administra-
13 tive Office of the United States Courts.

14 “(3) The Director of the Bureau of Prisons shall in-
15 form a person described in paragraph (4) who is released
16 from prison that the person shall be subject to a registration
17 requirement as a sex offender in any State in which the
18 person resides, is employed, carries on a vocation, or is a
19 student (as such terms are defined for purposes of section
20 170101(a)(3) of the Violent Crime Control and Law En-
21 forcement Act of 1994), and the same information shall be
22 provided to a person described in paragraph (4) who is sen-
23 tenced to probation by the probation officer responsible for
24 supervision of the person or in a manner specified by the

1 *Director of the Administrative Office of the United States*
 2 *Courts.*

3 “(4) *A person is described in this paragraph if the per-*
 4 *son was convicted of any of the following offenses (including*
 5 *such an offense prosecuted pursuant to section 1152 or*
 6 *1153):*

7 “(A) *An offense under section 1201 involving a*
 8 *minor victim.*

9 “(B) *An offense under chapter 109A.*

10 “(C) *An offense under chapter 110.*

11 “(D) *An offense under chapter 117.*

12 “(E) *Any other offense designated by the Attor-*
 13 *ney General as a sexual offense for purposes of this*
 14 *subsection.*

15 “(5) *The United States and its agencies, officers, and*
 16 *employees shall be immune from liability based on good*
 17 *faith conduct in carrying out this subsection and subsection*
 18 *(b).”.*

19 (2)(A) *Section 3563(a) of title 18, United States Code,*
 20 *is amended by striking the matter at the end of paragraph*
 21 *(7) beginning with “The results of a drug test” and all that*
 22 *follows through the end of such paragraph and inserting*
 23 *that matter at the end of section 3563.*

24 (B) *The matter inserted by subparagraph (A) at the*
 25 *end of section 3563 is amended—*

1 (i) by striking “The results of a drug test” and
2 inserting the following:

3 “(e) *RESULTS OF DRUG TESTING.*—The results of a
4 drug test”; and

5 (ii) by striking “paragraph (4)” each place it
6 appears and inserting “subsection (a)(5)”.

7 (C) Section 3563(a) of title 18, United States Code,
8 is amended—

9 (i) so that paragraphs (6) and (7) appear in nu-
10 merical order immediately after paragraph (5);

11 (ii) by striking “and” at the end of paragraph
12 (6);

13 (iii) in paragraph (7), by striking “assess-
14 ments.” and inserting “assessments; and”; and

15 (iv) by inserting immediately after paragraph
16 (7) (as moved by clause (i)) the following new para-
17 graph:

18 “(8) for a person described in section 4042(c)(4),
19 that the person report the address where the person
20 will reside and any subsequent change of residence to
21 the probation officer responsible for supervision, and
22 that the person register in any State where the person
23 resides, is employed, carries on a vocation, or is a
24 student (as such terms are defined under section

1 170101(a)(3) of the Violent Crime Control and Law
2 Enforcement Act of 1994).”.

3 (D) Section 3583(d) of title 18, United States Code,
4 is amended by inserting after the second sentence the follow-
5 ing: “The court shall order, as an explicit condition of su-
6 pervised release for a person described in section 4042(c)(4),
7 that the person report the address where the person will re-
8 side and any subsequent change of residence to the proba-
9 tion officer responsible for supervision, and that the person
10 register in any State where the person resides, is employed,
11 carries on a vocation, or is a student (as such terms are
12 defined under section 170101(a)(3) of the Violent Crime
13 Control and Law Enforcement Act of 1994).”.

14 (E) Section 4209(a) of title 18, United States Code,
15 insofar as such section remains in effect with respect to cer-
16 tain individuals, is amended by inserting after the first sen-
17 tence the following: “In every case, the Commission shall
18 impose as a condition of parole for a person described in
19 section 4042(c)(4), that the parolee report the address where
20 the parolee will reside and any subsequent change of resi-
21 dence to the probation officer responsible for supervision,
22 and that the parolee register in any State where the parolee
23 resides, is employed, carries on a vocation, or is a student
24 (as such terms are defined under section 170101(a)(3) of

1 *the Violent Crime Control and Law Enforcement Act of*
2 *1994).*”.

3 (3)(A) *The Secretary of Defense shall specify categories*
4 *of conduct punishable under the Uniform Code of Military*
5 *Justice which encompass a range of conduct comparable to*
6 *that described in section 170101(a)(3)(A) and (B) of the*
7 *Violent Crime Control and Law Enforcement Act of 1994*
8 *(42 U.S.C. 14071(a)(3)(A) and (B)), and such other con-*
9 *duct as the Secretary deems appropriate for inclusion for*
10 *purposes of this paragraph.*

11 (B) *In relation to persons sentenced by a court martial*
12 *for conduct in the categories specified under subparagraph*
13 *(A), the Secretary shall prescribe procedures and implement*
14 *a system to—*

15 (i) *provide notice concerning the release from*
16 *confinement or sentencing of such persons;*

17 (ii) *inform such persons concerning registration*
18 *obligations; and*

19 (iii) *track and ensure compliance with registra-*
20 *tion requirements by such persons during any period*
21 *of parole, probation, or other conditional release or*
22 *supervision related to the offense.*

23 (C) *The procedures and requirements established by the*
24 *Secretary under this paragraph shall, to the maximum ex-*
25 *tent practicable, be consistent with those specified for Fed-*

1 eral offenders under the amendments made by paragraphs
2 (1) and (2).

3 (D) If a person within the scope of this paragraph is
4 confined in a facility under the control of the Bureau of
5 Prisons at the time of release, the Bureau of Prisons shall
6 provide notice of release and inform the person concerning
7 registration obligations under the procedures specified in
8 section 4042(c) of title 18, United States Code.

9 (i) *PROTECTED WITNESS REGISTRATION*.—Section
10 3521(b)(1) of title 18, United States Code, is amended—

11 (1) by striking “and” at the end of subpara-
12 graph (G);

13 (2) by redesignating subparagraph (H) as sub-
14 paragraph (I); and

15 (3) by inserting after subparagraph (G) the fol-
16 lowing:

17 “(H) protect the confidentiality of the identity
18 and location of persons subject to registration require-
19 ments as convicted offenders under Federal or State
20 law, including prescribing alternative procedures to
21 those otherwise provided by Federal or State law for
22 registration and tracking of such persons; and”.

1 **SEC. 3. SENSE OF CONGRESS AND REPORT RELATING TO**
2 **STALKING LAWS.**

3 (a) *SENSE OF CONGRESS.*—*It is the sense of Congress*
4 *that each State should have in effect a law that makes it*
5 *a crime to stalk any individual, especially children, without*
6 *requiring that such individual be physically harmed or ab-*
7 *ducted before a stalker is restrained or punished.*

8 (b) *REPORT.*—*The Attorney General shall include in*
9 *an annual report under section 40610 of the Violent Crime*
10 *Control and Law Enforcement Act of 1994 (42 U.S.C.*
11 *14039) information concerning existing or proposed State*
12 *laws and penalties for stalking crimes against children.*

13 **SEC. 4. EFFECTIVE DATE.**

14 *This Act shall take effect on the date of the enactment*
15 *of this Act, except that—*

16 (1) *paragraphs (1), (2), and (3) of section 2(h)*
17 *shall take effect 1 year after the date of the enactment*
18 *of this Act; and*

19 (2) *States shall have 3 years from such date of*
20 *enactment to implement amendments made by this*
21 *Act which impose new requirements under the Jacob*
22 *Wetterling Crimes Against Children and Sexually*
23 *Violent Offender Registration Act, and the Attorney*
24 *General may grant an additional 2 years to a State*
25 *that is making good faith efforts to implement these*
26 *amendments.*